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EXAMINER	
LYNCH, PATRICK D	
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3636	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/591,641	STUECKLE, GERD	
	Examiner	Art Unit	
	Patrick D. Lynch	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 September 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/05/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The examiner notes the cancellation of claims 1-8 and the addition of claims 9-21 in the preliminary amendment received September 5, 2006. As such, claims 9-21 are currently pending

Specification

2. Claim 14 is objected to because of the following informalities: In line 3 of the claim it appears that the word "vent" should instead be "event". Appropriate correction is required.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the collision sensor or pre-collision sensor must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may

be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9, 10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansel et al. (US 6,464,298).

7. Regarding claim 9, Hansel et al. discloses motor vehicle seat (Col. 2, lines 10-11, "This adjuster can be used in particular in an automobile seat.") comprising:

   a. a seat height adjustment device configured to adjust a first part (considered the seat portion of the vehicle seat in Fig. 8 where the number 60 points) of the motor vehicle seat in relation to a second part (considered the base portion of the vehicle seat in Fig. 8 where pivot 61 is located and the number 58 points) of the motor vehicle seat; and

   b. at least one crash element (1) that is disposed between said first and second parts of the motor vehicle seat (Fig. 8 clearly shows the element 1 between the

above defined first and second parts), and at least impedes movement of the first part relative to the second part in the event of a collision ("pawl" 15 engages with "rack" 7, both elements being part of adjuster 1, to prevent relative movement of the first and second parts); wherein

c. the crash element comprises a piston(7)-cylinder("housing plat" 3 and "cover" 5 together form the cylinder) unit, the piston being connected to the first part of the motor vehicle seat (at 59) and the cylinder being connected to the second part of the motor vehicle seat (at 61); and

d. an opening is provided in a cylinder wall of the cylinder (As shown in Figs 3 and 4, there are openings on two sides of the cylinder wall), through which a toothed blocking element (15) of a blocking device can be engaged in a blocking manner with a toothing (Fig. 7 most clearly shows the toothing formed on the piston 7 to which the blocking element engages), at least in the event of a collision.

8. Regarding claim 10, Hansel et al. discloses that the cylinder (3,5) is rotatably mounted on the motor vehicle seat via a mounting point formed on the cylinder (Col. 5, lines 27-30, "...the housing, which includes the housing plate and cover 3, 5, is pivotably connected to a second pivot 61 of the seat structure...").

9. Regarding claim 15, Hansel et al. discloses that the blocking element is permanently in its blocking position and the blocking element moves to a non-blocking position only in the event of a seat height adjustment (Col. 4, lines 19-24, "When the adjuster is in its locked position as shown in Figs. 1-6, the helical

bending springs 43 press the control pin 39 to the ends of guide slots 41 that are closer to the rack 7, so that the actuating member 33 pushes on the pawl 15. The latter in turn pushes against the rack 7 and holds it without play in form fitting engagement..." Thus the blocking element is biased into its blocking position unless adjustment of the seat is required, in which case the unlocking lever 37 must be actuated at the discretion of the user.).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 9, 11-14, and 16-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cantin et al. (FR 2,780,689).

12. Regarding claim 9, Cantin et al. discloses a motor vehicle seat (Fig. 1) comprising:

    a. A first part (3) and a second part (4);

    b. At least one crash element (13) disposed between said first and second parts of the motor vehicle seat (Fig. 2 shows the crash element spanning between the first part 3 and the second part 4), and at least impedes movement of the first part relative to the second part in the event of a collision (From the English abstract off of the espacenet database it is clear that the locking device 23 locks movement of the moveable frame 20 relative to the fixed frame 14. Since the

moveable frame is attached to the first part 3 and the fixed frame is attached to the second frame 4, it is clear that the crash element 13 at least impedes movement of the first part relative to the second part.);

c. Wherein the crash element (13) comprises a piston(20)-cylinder(14) unit, the piston (20) being connected to the first part of the motor vehicle seat (by bolt 12) and the cylinder (14) being connected to the second part of the motor vehicle seat (by bolt 19);

d. And an opening is provided in a cylinder wall of the cylinder (Fig. 3 shows that element 24 is sandwiched between the components 14 which together make up the cylinder, thus the gap where element 24 is placed is considered the opening in the cylinder wall.), through which a toothed blocking element (24) of a blocking device can be engaged in a blocking manner with a toothing (27) formed on the piston (20), at least in the event of a collision.

13. It is not explicitly clear from the drawings, in lieu of an English translation, that the motor vehicle seat comprises a seat height adjustment device configured to adjust a first part of the motor vehicle seat relative to the second part of the motor vehicle seat. It appears, however, that a seat height adjustment device is inherent since the entire purpose of such a piston-cylinder arrangement is to allow the seat belt anchor to adapt to adjustments in the position of the upper portion of the seat frame. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a seat height adjustment device in the vehicle seat of Cantin et al., since the examiner takes Official Notice that such

devices are commonly known in the art of motor vehicle seats and the use of such a device would allow the vehicle seat to be adjusted to the optimum seating position which may vary according to the size of the occupant.

14. Regarding claim 11, Cantin et al. discloses that the mounting point of the piston on the first part of the vehicle seat on the first part of the motor vehicle seat is at the same time the mounting point for a belt buckle (Fig. 2 and Fig. 3 clearly show that the belt 9 and the buckle 11 are attached via the same bolt 12 that attaches the piston 20 to the first part.).

15. Regarding claim 12, Cantin et al. discloses that the blocking device is arranged outside of the cylinder (The cylinder portion may be considered, under the broadest reasonable interpretation, to be the portion directly surrounding the piston 20. As shown by Fig. 3, the part of element 14 where the blocking device 24 is attached is indented; indicating that this portion is merely a flange existing outside of what may be considered the cylinder. Thus the blocking device 24 is considered to be arranged on the outside of the cylinder.).

16. Regarding claim 13, Cantin et al. discloses that the blocking element is actuated mechanically, pyrotechnically, electrically or electromagnetically (As shown in the figures, a mechanical actuation of the blocking element may be used. Page 7, line 29 to page 8, line 2 also explains that the blocking element may be pyrotechnically actuated.).

17. Regarding claim 14, Cantin et al. discloses a collision sensor or pre-collision sensor provided to move the blocking element to its blocking position in the event

of a collision or a pre-collision (As explained in the English abstract from the espacenet database, the blocking device is "sensitive to sudden vehicle decelerations". Thus, there is inherently a component of the blocking device which senses the deceleration.).

18. Regarding claim 16, Cantin et al. discloses a locking element (28) that is triggerable to fix the blocking element in its blocking position (Page 9, lines 20-27 discloses that under the appropriate deceleration, the element 28 rotates forward and is held in position by the spring 32. As element 28 moves forward, the teeth of the blocking element 24 cooperate with the teeth 27 of the piston 20. Thus the locking element 28 fixes the blocking element 24 in its blocking position.).

19. Regarding claim 17, Cantin et al. discloses a height adjustment device (The device of Cantin et al. is operable to adjust the height of at least the seat belt) for a motor vehicle seat (Fig. 1) having a first part (3) and a second part (4), the height adjustment device comprising:

    a. At least one crash element (13) disposed between said first and second parts of the motor vehicle seat (Fig. 2 shows the crash element spanning between the first part 3 and the second part 4), and at least impedes movement of the first part relative to the second part in the event of a collision (From the English abstract off of the espacenet database it is clear that the locking device 23 locks movement of the movaeable frame 20 relative to the fixed frame 14. Since the moveable frame is attached to the first part 3 and the fixed frame is attached to

the second frame 4, it is clear that the crash element 13 at least impedes movement of the first part relative to the second part.);

b. Wherein the crash element (13) comprises a piston(20)-cylinder(14) unit, the piston (20) being connected to the first part of the motor vehicle seat (by bolt 12) and the cylinder (14) being connected to the second part of the motor vehicle seat (by bolt 19);

c. And an opening is provided in a cylinder wall of the cyclinder (Fig. 3 shows that element 24 is sandwiched between the components 14 which together make up the cylinder, thus the gap where element 24 is placed is considered the opening in the cylinder wall.), through which a toothed blocking element (24) of a blocking device can be engaged in a blocking manner with a toothing (27) formed on the piston (20), at least in the event of a collision.

20. It is not explicitly clear from the drawings, in lieu of an English translation, that the motor vehicle seat comprises a seat height adjustment device configured to adjust a first part of the motor vehicle seat relative to the second part of the motor vehicle seat. It appears, however, that a seat height adjustment device is inherent since the entire purpose of such a piston-cylinder arrangement is to allow the seat belt anchor to adapt to adjustments in the position of the upper portion of the seat frame. Alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a seat height adjustment device in the vehicle seat of Cantin et al., since the examiner takes Official Notice that such devices are commonly known in the art of motor vehicle seats and the use of such

a device would allow the vehicle seat to be adjusted to the optimum seating position which may vary according to the size of the occupant.

21. Regarding claim 18, Cantin et al. discloses the claimed invention except that the first part is mountable to the cushion while the second part is mountable to the floor of the vehicle instead of vice versa. However, one may consider the first part to be element 4 (mounted to the floor) and the second part to be element 3 (mounted to the cushion). In this case, the piston-cylinder unit would be attached such that the piston is connected to the second part and the cylinder is connected to the first part (a reversal of what applicant claims in claim 17). It would have been obvious to one having ordinary skill in the art at the time the invention was made, however, to reverse the piston cylinder arrangement such that the cylinder is attached to element 3, now considered the second part, and the piston is attached to element 4 since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.
22. Regarding claim 19, Cantin discloses that the second part is mountable to a floor of the vehicle (As shown in Fig. 1 the entire seat is mounted to the floor 5 of the vehicle, thus the second part, which is the lowest point of the seat must be mounted to the floor 5 as well.), and the first part is mountable to a cushion of the vehicle seat (Figs. 1 and 2 shows that the first part 3 is the part upon which the cushion is attached).
23. Regarding claim 20, Cantin et al discloses that a mounting point of the second vehicle part also forms a mounting point for a vehicle seat belt (As Fig. 2 shows,

the seat belt is mounted to the second vehicle part 3. The point where this mounting occurs may be considered a mounting point of the second vehicle part.)

24. Regarding claim 21, Cantin et al. discloses that the mounting point of the first vehicle part also forms a mounting point for a vehicle seat belt (The mounting point of the first vehicle part 3 is the attachment of bolt 12, which Fig. 2 clearly shows is also the mounting point for the seat belt.).

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schumann et al., Deptolla, Borlinghaus et al., Laporte, Bauer et al., Bowers, Hollowell, and Nathan teach structures having similarities to that of applicant's disclosed invention.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Lynch whose telephone number is (571)270-3736. The examiner can normally be reached on Monday-Friday, 7:30 a.m. - 5:00 p.m., EST.

27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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04/30/2008

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